



Scott County
Board of Adjustment
Monday, August 10, 2020
6:30PM

Scott County Government Center
County Board Room
200 Fourth Avenue West
Shakopee, MN



Scott County

August 10, 2020 Board of Adjustment

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**SCOTT COUNTY
BOARD OF ADJUSTMENT**

**Scott County Government Center
200 Fourth Avenue West
Shakopee, Minnesota**

**Monday, August 10, 2020
County Board Room at 6:30 PM**

AGENDA

I. ROLL CALL AND INTRODUCTIONS

II. APPROVAL OF PREVIOUS MINUTES FROM JULY 13, 2020 BOA

III. PUBLIC HEARING – 6:30 PM DUSTIN RASMUSSEN VARIANCE (PL#2020-042)

- A. Request for a Variance to Reduce the Required Structure Setback From 35 feet to 27 feet to a Local Road Right-of-Way

Location:	Section 20
Township:	Helena
Current Zoning:	A-1

IV. GENERAL & ADJOURN



SCOTT COUNTY
BOARD OF ADJUSTMENT
MEETING MINTUES

Scott County Government Center
200 Fourth Avenue West
Shakopee, Minnesota

Monday, July 13, 2020
6:30 PM

I. ROLL CALL AND INTRODUCTIONS

Vice Chair Ray Huber opened the meeting at 6:30 PM with the following members present: Donna Hentges, Ed Hrabe, Thomas Vohnhof, and Barbara Johnson. Gary Hartmann and Lee Watson appeared by phone through Skype teleconference. Note: Lee Watson attendance ended several minutes into the meeting due to technical difficulties.

County Staff Present: Brad Davis, Planning Manager; Marty Schmitz, Zoning Administrator; Greg Wagner, Principal Planner; Nathan Hall, Associate Planner; Deb Brazil, Administration; Tom Wolf, County Board Commissioner-appearing by phone with Skype; and Deputy Clerk to the Board, Barb Simonson.

II. APPROVAL OF MARCH 9, 2020 BOARD OF ADJUSTMENT MINUTES.

Motion by Commissioner Johnson; Second by Commissioner Vohnhof to approve the March 9, 2020 BOA minutes. The motion carried unanimously with Commissioner Hentges abstaining due to not being present at the March meeting.

III. PUBLIC HEARING 6:30 PM DONALD GIESEN VARIANCE (PL#2020-008)

- A. Request for a Variance to Increase a Legal Non-conforming Structure by 63% of the Existing Square Footage, Which is Over the 50% Expansion Allowed by Ordinance.

Location: Section 36
Township: Helena
Current Zoning: A-1

Planner Greg Wagner presented the staff report for this application. The specific details within the staff report and a video are available on the Scott County Website: July 13, 2020 Board of Adjustment Agenda Packet. (To view the staff report on the website, click on the download arrow and click on Agenda, Save and Open. Next open the bookmark at the top of the page and click on the Giesen Variance project.)

Comments and Questions from the Commissioners:

Commissioner Hrabe asked for clarification on whether there is a requirement that the existing structure be removed prior to beginning the new construction. Mr. Wagner explained there is not a requirement for the existing to be removed first.

Applicant Giesen reported they will be using the existing structure as a staging area during construction of the new addition.

Commissioner Johnson inquired about the status and proposals for the existing driveways. Mr. Wagner explained on the displayed maps what will happen to each driveway and the one that will give access to the new garage.

Commissioner Huber asked about how the setbacks to the property lines will affect the project. Mr. Wagner explained using the map display how and where the property lines will be affected.

Chair Huber opened the meeting up to the public:

Staff Wagner reported on an email received by the applicant's neighbor in support of the project

Noting no further comments from the public there was a motion by Commissioner Vonhof; second by Commissioner Hrabe to close the public hearing. The motion carried unanimously.

Motion by Commissioner Vonhof; second by Commissioner Hartmann to approve the variance based on the criteria for variance consideration I recommend approval of the requested variance to increase a legal non-conforming structure by 63% of the existing square footage which is over the 50% expansion allowed by Ordinance.

Vice Chair Huber called for a roll call vote with results as follows:

**Commissioner Vonhof: Aye
Commissioner Hartmann: Aye
Commissioner Hentges: Aye
Commissioner Hrabe: Aye
Commissioner Huber: Aye
Commissioner Johnson: Aye**

The motion passed with 6 Ayes

Criteria for Granting Variance:

1. *Granting the variance will not conflict with the Comprehensive Plan.*

The proposal is in conformance with the Scott County 2040 Comprehensive Plan goals and policies for promoting public health, safety, and general welfare.

2. *Exceptional or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zoning district or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since the enactment of this Ordinance had no control.*

Most of the parcels in the Union Hill hamlet are legal non-conforming lots of record created before current zoning ordinance standards, and the existing home was built in the 1930's as part of the original farmstead.

3. *The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.*

Other properties construct homes with attached garages, which is the standard for today's homes versus older farm homes from the 1930's. This variance will allow an attached garage and additional family living space to be added to an older home.

4. *That the special conditions or circumstances do not result from the actions of the applicant.*

The need for the variance is due to the location of the existing home that was constructed in 1930 when Church Avenue was a rural country road. This home was built before current county zoning ordinance standards requiring larger structure setbacks.

5. *That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.*

Granting of the requested variance would not confer on the applicants any special privilege. They would be able to expand their family home to a similar size and style as other homes in rural Scott County.

6. *The variance requested is the minimum variance which would alleviate the practical difficulty.*

The requested variance allows a slightly larger expansion of a non-conforming structure than the 50% expansion allowed by Ordinance. The expansion will be opposite of the existing setback encroachment so it will not further decrease the setback, and the applicants are also removing a detached garage that currently encroaches into another setback.

7. *The variance would not be materially detrimental or will not essentially alter the character of the property in the same zoning district.*

The variance would not be materially detrimental or alter the character of the property, nor of the Union Hill hamlet area that consists of other single-family homes.

8. *Economic considerations alone do not constitute a practical difficulty.*

There are no economic considerations involved in this variance request. They are also incurring the costs for removal of a driveway access and demolition of an accessory building as part of their site improvements.

IV. GENERAL & ADJOURN

Motion by Commissioner Johnson; second by Commission Watson to adjourn the meeting at 6:44 PM. The motion carried unanimously.

Ray Huber
Vice Chair, Board of Adjustment

Date

Barbara Simonson
Deputy Clerk to the Board

Date



STAFF REPORT PREPARED FOR TOWNSHIPS & COUNTY BOARD OF ADJUSTMENT

GOVERNMENT CENTER 114 • 200 FOURTH AVENUE WEST • SHAKOPEE, MN 55379-1220
(952)496-8475 • Fax (952)496-8496 • Web www.co.scott.mn.us

Dustin Rasmussen Variance

Request:

A) A variance to reduce the required structure setback from 35 feet to 27 feet to a local road right-of-way
Greg Wagner, Principal Planner, is the project manager and is available for questions at 952-496-8360.

General Information:

Applicant:	Dustin Rasmussen	Site Location:	25001 St. Benedict Road
Property Owner:	Dustin Rasmussen	Township:	Section 20, Helena
Public Hearing Date:	August 10, 2020	Action Deadline:	September 20, 2020

Zoning/Comprehensive Plan Information:

Zoning District:	Agricultural Preservation District, A-1	Comprehensive Land Use Plan:	Agricultural Preservation
Overlay Zoning District:	Shoreland	School District:	New Prague #721
Watershed District:	Scott WMO	Fire District:	New Prague
Ordinance Sections:	Chapters 3 & 25	Ambulance District:	North Memorial

Report Attachments:

1. Site Location Map
2. Aerial Photo Map
3. Applicant's variance request narrative & photos
4. Site Drawing
5. Deck Plans/Elevations
6. Helena Township Recommendation

Request: A variance to reduce the required structure setback from 35 feet to 27 feet to a local road right-of-way

Comprehensive Plan- The property is located within the Agricultural Preservation Area.

Adjacent Land Use/Zoning- North – 7-acre church/cemetery parcel, zoned A-1
South – 10-acre home and agricultural land, zoned A-1
East – 28-acre farmstead parcel, zoned A-1
West – 78-acre farmstead parcel, zoned A-1

Existing Conditions- The 1.15-acre parcel consists of a 1910 farm home, detached garage and small accessory building.

Ordinance Requirements- Front Yard Setback: 35 feet from local road right-of-way
Side Yard Setback: 15 feet
Rear Yard Setback: 30 feet

Proposed Setbacks- Front Yard Setbacks: 27 feet to local road right-of-way
Side Yard Setback: 5 feet
Rear Yard Setback: 200 feet to east line

Public Notice- Notices were sent to property owners within 500 feet of the site.

Background-

Dustin Rasmussen, applicant and property owner, is requesting a variance from the 35-foot road right-of-way setback to construct an 11-foot by 11-foot deck. Mr. Rasmussen purchased the 1910 built farm home back in 2004 and is requesting the deck addition off of the front door area that faces the public road as identified in the site photo below.

Site Photo: View looking north at the home and location of the proposed deck.



By Ordinance any deck that is less than 18 inches from adjacent ground level is exempt from required setbacks. The applicant currently has 2 concrete steps off of the front door but would like to replace these with a ground level deck off of that entry. The south half of the deck would be 18" or less high; however, the site slopes down to the north towards Raven Stream so the north half of the deck would be slightly higher than the 18" exemption due to topography.

Analysis:

The property is located in the hamlet of St. Benedict along St. Benedict Road, a local Helena Township road. Since the setback encroachment is towards a local township road, the applicant first reviewed with the Helena Town Board to determine if they had any concerns with the deck addition. The Township provided the attached recommendation for variance approval.

Staff does not have any issues with the requested variance since it is for a ground level deck, and if not for the property slope the deck would be exempt from setback requirements. The deck would be 27 feet from the right-of-way and about 46 feet from the edge of the paved road. Staff feels more comfortable with a deck variance, when it would almost otherwise be exempt, versus if the request would be for a full structural addition to the home coming towards the road.

Township Recommendation:

The Helena Town Board recommended approval of the variance request at their July 9, 2020 meeting. A copy of the recommendation is attached.

Staff Recommendation:

Based on the representations, information, and site drawing provided by the applicant, staff recommends approval of the requested variance based on the practical difficulty criteria for variance approval.

Criteria for Approval:

1. *Granting the variance will not conflict with the Comprehensive Plan.*

The proposal is in conformance with the Scott County 2040 Comprehensive Plan goals and policies for promoting public health, safety, and general welfare.

2. *Exceptional or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zoning district or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since the enactment of this Ordinance had no control.*

Most of the parcels in the St. Benedict hamlet are legal non-conforming lots of record created before current zoning ordinance standards, and the existing home was built in the 1910 well before current land use standards. The need for the variance is due to the topography of the parcel causing a portion of the deck to be higher than 18 inches from ground level, which would otherwise be exempt.

3. *The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.*

In reviewing other parcels in the area, the majority have decks and some of the homes and other structures are of similar distance back from the road.

4. *That the special conditions or circumstances do not result from the actions of the applicant.*

The need for the variance is due to the location of the existing home that was constructed in 1910 before current county zoning ordinance standards requiring larger structure setbacks.

5. *That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.*

Granting of the requested variance would not confer on the applicants any special privilege. They would be able to construct a small deck on the front of the home, similar to other single-family homes in rural Scott County.

6. *The variance requested is the minimum variance which would alleviate the practical difficulty.*

The requested variance is for a reasonable front deck that would extend 11 feet out from the front of the home. This is about an average depth for a deck when comparing to other new decks, and it would be situated approximately 46 feet from the edge of the public road.

7. *The variance would not be materially detrimental or will not essentially alter the character of the property in the same zoning district.*

The variance would not be materially detrimental or alter the character of the property, nor of the St. Benedict hamlet area that consists of other single-family homes.

8. *Economic considerations alone do not constitute a practical difficulty.*

There are no economic considerations involved in this variance request.

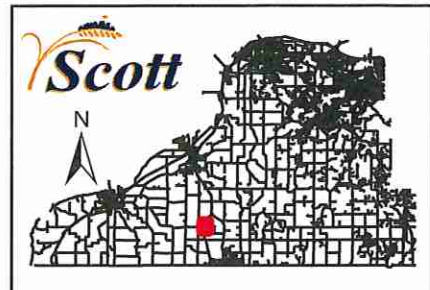
Board of Adjustments/Township Alternatives:

1. Approve the variance request as recommended by zoning staff based on the hardship criteria as detailed in this report.
2. Approve the variance request with amendments to the requested variance and to the hardship criteria.
3. Table the variance request for a specific reason.
4. Deny the variance request for a specific reason.

Suggested Motion for Board of Adjustments or Township Board:

Based on the criteria for variance consideration I recommend approval of the requested variance to reduce the 35-foot road right-of-way setback to 27 feet in order to construct a deck.

HELENA TOWNSHIP
SECTION 20
DUSTIN RASMUSSEN
REQUEST FOR VARIANCE



Saint Benedict Road

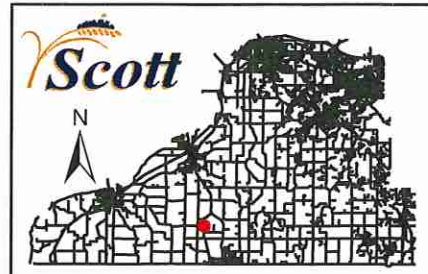
248th Street West

SAND CREEK

250th Street West



**HELENA TOWNSHIP
SECTION 20
DUSTIN RASMUSSEN
REQUEST FOR VARIANCE**



250th Street West

Saint Benedict Road

SAND CREEK



Dustin Rasmussen
25001 St. Benedict Rd.
New Prague, MN 56071

July 17th, 2020

Scott County Planning & Resource Management
200 4th Ave W
Shakopee, MN 55379

RE: Construct a 11'x11' deck in front of home

Dear Sir or Madam,

Due to the existing building layout in St. Benedict located in Helena Township many properties over the years have needed to request a variance to perform work on their properties due to the location of the township roadways as it relates to existing buildings. The existing concrete stair structure leading into the front of my 1910 home has slowly settled creating cause for concern to make proper use of our front entry door. Currently the front of my home is approximately 71' from center of roadway. 33' from roadway center into my property plus a 35' requirement setback totals 68' which leaves only 3' of room for a deck improvement to my property. I am requesting a variance of 8' putting the setback total to 60' to make better use of the existing sidewalk and make a functionable use of the area. Upon surveying there are no existing utilities, property lines, or neighboring structures that would be detrimental to the functionality of the proposed space. I believe that the deck would be an overall improvement to the neighborhood and will not have a negative impact on anything.

I have enclosed a site plan, a check for application and recording fees, Helena Township recommendation form, and a land of use permit application.



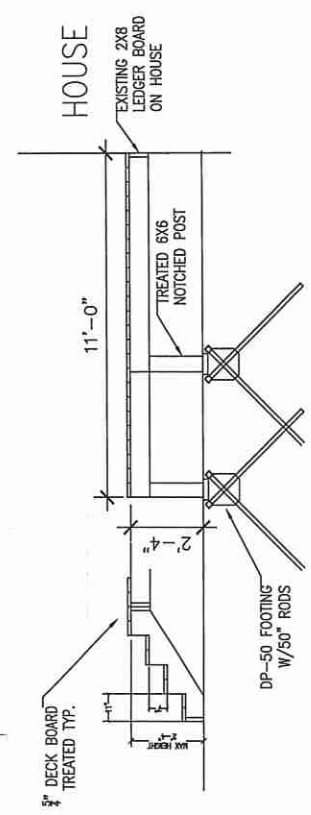
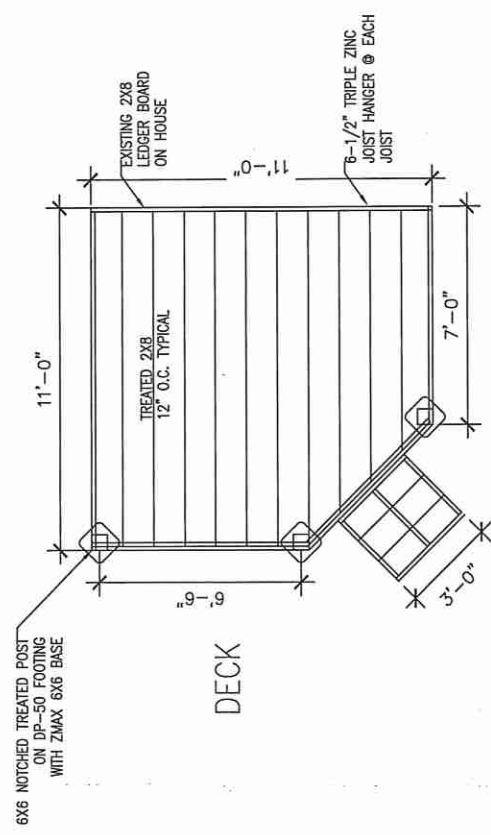
Thank you for your time put forth in my proposed project. Let me know if you have any further questions or need additional information.

Respectfully,

A handwritten signature in blue ink, appearing to read "Dustin Rasmussen".

Dustin Rasmussen





2/15/17

TOWNSHIP RECOMMENDATION FORM

On July 9, 2020, the Town Board of Helena, discussed
with Dustin Rasmussen, the request to receive a variance
from the required 68' front yard set back to
60' from the e. of St. Benedict Road to build an
11' x 11' deck

After reviewing the Request, the Town Board:

☒

RECOMMENDS APPROVAL

WITH THE FOLLOWING CONDITIONS:

taxes current; twp
has right to farm Ordinance

☐

RECOMMENDS DISAPPROVAL

FOR THE FOLLOWING REASONS:

☐

HAS NO RECOMMENDATION, BUT WILL FORWARD THE REQUEST TO THE PLANNING
COMMISSION OR BOARD OF ADJUSTMENT.

SIGNED:

Adam Cratt

CLERK

John Hummerich

SUPERVISOR

Dustin Rasmussen

SUPERVISOR

Edward Nyfeler

SUPERVISOR

White - County

Yellow - Township Copy

Pink - Applicant's Copy